

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

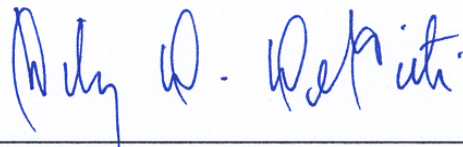
McCOY JOHNSON, JR.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. CIV-11-1437-D
	)	
GREAT PLAINS COCA-COLA BOTTLING	)	
COMPANY,	)	
	)	
Defendant.	)	

**ORDER**

Before the Court is Defendant's Motion to Dismiss [Doc. No. 9], which challenges under Fed. R. Civ. P. 12(b)(6) the sufficiency of Plaintiff's original pleading. However, on January 24, 2012, Plaintiff timely filed his Amended Complaint.<sup>1</sup> This amendment supersedes Plaintiff's prior pleading and renders it of no legal effect. *See Davis v. TXO Prod. Corp.*, 929 F.2d 1515, 1517 (10th Cir. 1991); *see also Miller v. Glanz*, 948 F.2d 1562, 1565 (10th Cir. 1991).

IT IS THEREFORE ORDERED that Defendant's Motion is DENIED as moot without prejudice to resubmission, if appropriate, in response to Plaintiff's amended pleading.

IT IS SO ORDERED this 25<sup>th</sup> day of January, 2012.



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TIMOTHY D. DEGIUSTI  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> A plaintiff may amend as a matter of right within 21 days after service of a Rule 12(b) motion.